

1 Law Office of Mary F. Chapman, Ltd.
 2 Mary F. Chapman, Esq.
 3 Nevada Bar No. 6591
 8440 W. Lake Mead Blvd.
 Suite 203
 Las Vegas, Nevada 89128
 maryf.chapman@juno.com
 (702) 202-4223
 (702) 202-2003

6 **UNITED STATES DISTRICT COURT**
 7 **DISTRICT OF NEVADA**

8 DONNA BROWER)

9 Plaintiff,)

10 vs.)

11 MCDONALD'S CORPORATION, a)
 12 Foreign Corporation licensed)
 to do business in Nevada,)

13 Defendant.)

Case No. 2:19-cv-2099-GMN-BNW

STIPULATION TO STRIKE
AND REFILE UNDER SEAL PORTIONS
OF DEFENDANT'S MOTION FOR
 SUMMARY JUDGMENT
AND PROPOSED ORDER

14
 15 Plaintiff Donna Brower (hereafter "Plaintiff") by and
 16 through her counsel of record, Mary F. Chapman, Esq., and
 17 Defendant McDonald's Corporation (hereafter "Defendant") by and
 18 through its counsel of record, hereby moves the Court for an
 19 Order Striking Portions of Defendant's publically filed Motion
 20 for Summary Judgment and Approving Defendant to file its redacted
 21 portions of the motion for summary judgment under seal.

22 The current publically filed motion for summary judgment Dkt
 23 #70 should have Plaintiff's protected medical health information
 24 removed. Specifically, in the statement of facts ¶¶55, 56, as
 25 well as, Exhibits W, Y, Z, and GG. In error, Defendant failed to
 26 fully redact Plaintiff's medical records and did not request the
 27 sealing of Plaintiff's protected health record in Defendant's
 28 Motion to Seal.

Pursuant to the Court's Protective Order Plaintiff's medical

1 records were automatically designated as confidential. See,
2 Protective Order DKT #35 at ¶4. There is a strong presumption
3 that judicial records are accessible to the public. See, *Kamakana*
4 *v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.
5 2006). In *Foltz*, the court "distinguish[ed] between dispositive
6 and nondispositive motions," finding that "because 'summary
7 judgment adjudicates substantive rights and serves as a
8 substitute for trial,'" courts apply the "compelling reasons"
9 standard to documents attached to a motion for summary judgment.
10 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135-36
11 (9th Cir. 2003) (quoting, *Rushford v. New Yorker Magazine*, 846
12 F.2d 249, 252 (4th Cir. 1988).) This court, and others within
13 the Ninth Circuit, have recognized that the need to protect
14 medical privacy qualifies as a "compelling reason" for sealing
15 records. See, e.g., *San Ramon Regional Med. Ctr., Inc. v.*
16 *Principal Life Ins. Co.*, 2011 U.S. Dist. LEXIS 4100, 2011
17 WL89931, at *n.1 (N.D. Cal. Jan. 10, 2011); *Abbey v. Hawaii*
18 *Employers Mut. Ins. Co.*, 2010 U.S. Dist. LEXIS 120881, 2010
19 WL4715793, at * 1-2 (D. HI. Nov. 15, 2010); *G. v. Hawaii*, 2010
20 U.S. Dist. LEXIS 63199, 2010 WL 267483, at *1-2 (D.HI. June 25,
21 2010); *Wilkins v. Ahern*, 2010 U.S. Dist. LEXIS 110927, 2010
22 WL3755654 (N.D. Cal. Sept. 24, 2010); *Lombardi v. TriWest*
23 *Healthcare Alliance Corp.*, 2009 U.S. Dist. LEXIS 41693, 2009 WL
24 1212170, at * 1 (D.Ariz. May 4, 2009). This is because a
25 person's medical records contain sensitive and private
26 information about their health. While a plaintiff puts certain
27 aspects of his medical condition at issue when he files an action
28 alleging unlawful actions based upon a serious medical condition,

1 that does not mean that the entirety of his medical records filed
2 in connection with a motion (which frequently contain records
3 that pertain to unrelated medical information) need be
4 unnecessarily broadcast to the public. See, *Williams v. Dr.*
5 *Marks*, 2019 U.S. Dist. LEXIS 177310, 2019 WL 5102470 *4-5 (D. NV
6 Oct. 11, 2019), see also, *Howard v. Cox*, 2021 U.S. Dist. LEXIS
7 188270, 2021 WL 4487603 (D. NV Sept. 20, 2021). In other words,
8 the plaintiff's interest in keeping his sensitive health
9 information confidential outweighs the public's need for direct
10 access to the medical records. Id.

11 / / /

12 / / /

13 / / /

14 / / /

15 / / /

16 / / /

17 / / /

18 / / /

19 / / /

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

25 / / /

26 / / /

27 / / /

28 / / /

1 Compelling reason exists and Plaintiff's medical records
2 should be filed under seal. Accordingly, Defendant's currently
3 filed motion for summary judgment DKT #70 should have the
4 statement of facts ¶¶55, 56, as well as, Exhibits W, Y, Z, and GG
5 redacted and filed under seal.

6 Dated: January 13, 2022

Respectfully submitted,
Law Office of Mary F. Chapman, Ltd.

7
8 BY: /S/ Mary F. Chapman, Esq.
Mary F. Chapman, Esq.
8440 W. Lake Mead Blvd.
Suite 203
Las Vegas, Nevada 89128

11
12 BY: /S/ Alison Langstrum Macneill

13 CAMPBELL LITIGATION, P.C.
14 Stacey A. Campbell, Esq.
Stacey@Campbell-Litigation.com
15 Alison Langstrum Macneill
Alison@Campbell-Litigation.com
16 1410 N. High St.
Denver, Colorado 80218

17
18
19 **IT IS SO ORDERED.** The Clerk's Office is
20 directed to seal Defendant's Motion for Summary
21 Judgment, (ECF No. 70). **IT IS FURTHER**
22 **ORDERED** that Defendant shall file a redacted
23 version of the Motion for Summary Judgment,
24 (ECF No. 70). If Defendant fails to file the
redacted document by February 21, 2022, the Court
will make the Motion for Summary Judgment,
(ECF No. 70), public once again.

25 Dated this 21 day of January, 2022

26
27 
28 Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT